

RESOLUTION NO. 2022-07

Baker, Bullock, Kepple, Litten,  
O'Malley, Rader, Shachner

A RESOLUTION to take effect immediately provided it receives the vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the Mayor to enter into a permanent traffic control safety improvements easement agreement with JK & MAG LLC, governing the rights of the parties relative to a parcel located at 17203 HILLIARD RAD, Lakewood, Ohio 44107 (PPN#311-11-006) which grants the City of Lakewood access to the parcel for construction and ongoing maintenance of any and all traffic control devices and appurtenances in exchange for the replacement of approximately 225 square feet of non-compliant concrete sidewalk panels.

WHEREAS, the city administration wishes to enter into an easement agreement with JK & MAG LLC, governing the rights of the parties relative to a parcel of land located 17203 Hilliard Road, Lakewood, Ohio 44107 (PPN#311-11-006); and

WHEREAS, all contracts not specifically excepted by ordinance must be approved by Council pursuant to Section 111.02 of the Codified Ordinances; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this resolution is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that the construction of new traffic control device should be installed to prevent further damage and accidents; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, STATE OF OHIO:

Section 1. The Mayor is hereby authorized to enter into a permanent traffic control safety improvements easement agreement in substantially the form as the agreement attached hereto as Exhibit A and Exhibit B with JK & MAG LLC.

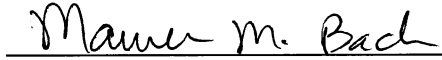
Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least two thirds of the mem-

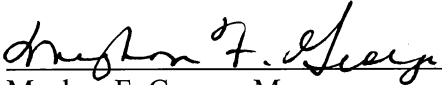
bers of Council this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: 3/21/22

  
Daniel J. O'Malley, Council President

  
Maureen M. Bach, Council Clerk

Approved: 3/24/22

  
Meghan F. George, Mayor

**Agreement for a Permanent Traffic Control Safety Improvement Easement**

THIS AGREEMENT made and concluded at Lakewood, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2022 by and between the CITY OF LAKEWOOD, Ohio, 12650 Detroit Avenue, Lakewood, Ohio and/or its agents (hereinafter referred to as "City") and JK & MAG, LLC, 17203 Hilliard Road, Lakewood, Ohio together with their heirs, administrators, executors, successors and assigns (hereinafter referred to as the "Owner").

WHEREAS, Owner is the owner of real property, Permanent Parcel No. 313-11-006, located at 17203 Hilliard Road, Lakewood, Ohio (hereinafter referred to as "Property"); and

WHEREAS the City desires to obtain a permanent easement.

**WITNESSETH:**

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Owner shall grant a perpetual and permanent non-exclusive easement to The City of Lakewood over, under, and through the premises described in Exhibit "A" ("Traffic Control Safety Improvements Easement") attached hereto and incorporated herein fully as if by reference for the purposes of ingress and egress, installing, constructing, operating, repairing, maintaining, replacing, extending and reconstructing any and all traffic control devices and appurtenances which the City shall cause to be recorded for record with the Cuyahoga County Recorder which will run with the land. This easement is intended for public use. The City of Lakewood, its successors and assigns, may grant to others the right to use the easement for purposes not inconsistent with the primary purposes of the easement. The terms and provisions hereof shall constitute covenants running with the land over, under and through, shall inure to the benefit of

the general public and The City of Lakewood personnel, agents, successors and assigns and shall be binding upon each of them.

2. City shall compensate Owner with the replacement of 225 square feet of non-compliant concrete sidewalk panels located in the Right of Way along the western property line at the subject property for the easement. The City of Lakewood contractor would remove and construct new sidewalk within 180 days of the recorded easement at the Cuyahoga County Recorder's office.

3. The Owner shall not be permitted to construct structures, buildings, retaining walls, overhead or underground wires, overhead or underground utilities, permanent signs, sprinkler systems, or embankments on any part of the easement area. The Owner shall maintain the easement area and preserve the area as grass turf only. The Owner shall not affix any objects to the signal equipment.

4. The Owner shall provide the City of Lakewood Right of Entry to the property in order to perform the work required to install the traffic control devices. Upon completion of the installation of traffic control devices and appurtenances, The City of Lakewood shall restore the property to its original condition including replacement of any damaged concrete and topsoil and seeding of disturbed areas.

5. This agreement embodies the entire agreement between the City and Owner with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral. Neither the City nor Owner has made nor relied upon any promises, representations or warranties in connection with this agreement that are not expressly set forth in this agreement. In entering into this agreement, the City and Owner have relied on the recitals representation and warranties contained in this agreement.

6. This agreement may not be modified except by a written agreement executed by the City and Owner. No waiver of any condition or covenant in this agreement by either party shall be effective unless made in writing, nor shall any waiver be deemed to imply or constitute a future waiver of the same or any other condition or covenant of this agreement.

7. This agreement shall be construed and enforced in accordance with the laws of the State of Ohio.

8. Whenever a word appears here in its singular form, such word shall include the plural; and the masculine gender shall include the feminine and neuter genders. This agreement shall be construed without regard to any presumption or the rule permitting construction against

the party causing this agreement to be drafted an shall not be construed more strictly in favor of or against either of the parties hereto.

9. If any term or provision of this agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS HEREOF, the parties have executed this agreement for the reasons stated herein and on the date(s) so noted below.

**OWNER:**

Date: 2/16/22

John M. Katalini  
JK & MAG, LLC

**CITY OF LAKEWOOD:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Meghan F. George, Mayor

**APPROVED AS TO LEGAL FORM  
AND CORRECTNESS:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Jennifer L. Swallow, Chief Assistant Law Director



February 2, 2022

**DESCRIPTION OF EASEMENT  
FOR  
TRAFFIC CONTROL SAFETY IMPROVEMENTS**

Situated in the City of Lakewood, County of Cuyahoga, and State of Ohio and known as being an easement for traffic control devices over, through, and upon a part of Sublot No. 2 in The Corrigan Realty Company Subdivision Number 4 of part of Original Rockport Township Section 18 as shown by plat recorded in Volume 75, Page 12 of Cuyahoga County Map Records, and more particularly being a part of the premises (PPN 313-11-006) conveyed to JK & MAG, LLC by instrument dated October 12, 2021 and recorded in AFN 202110120823 of Cuyahoga County Official Records and is bounded and described as follows:

BEGINNING in the centerline of Hilliard Road, 60 feet in width, at an iron pin stake in a monument box found marking its intersection with the centerline of McKinley Avenue, 50 feet in width, as established by said plat of The Corrigan Realty Company's Subdivision Number 4;

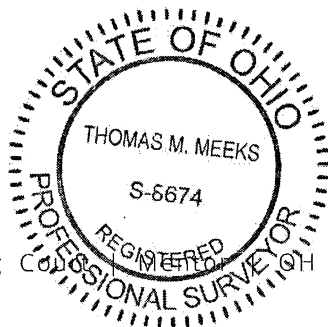
Thence, South  $1^{\circ}40'30''$  East along said centerline of McKinley Avenue a distance of 45.93 feet to a point therein;


Thence, South  $88^{\circ}19'30''$  West, by a line which is perpendicular to said centerline of McKinley Avenue, a distance of 25.00 feet to the westerly right-of-way line of said McKinley Avenue at its intersection with the southerly right-of-way line of said Hilliard Road, the same being the northeasterly corner of said Sublot No. 2 and the PRINCIPAL POINT OF BEGINNING of the following described easement area;

- COURSE I                      Thence, South  $1^{\circ}40'30''$  East along said westerly right-of-way line of McKinley Avenue, a distance of 10.00 feet to a point therein;
- COURSE II                     Thence, North  $86^{\circ}09'03''$  West, crossing through said Sublot No. 2, a distance of 17.94 feet to the aforesaid southerly right-of-way line of Hilliard Road;
- COURSE III                    Thence, North  $61^{\circ}53'30''$  East along said southerly right-of-way line of Hilliard Road, a distance of 20.00 feet to the PRINCIPAL POINT OF BEGINNING of the herein described easement and containing 89.5 Square Feet of land (0.002 Acre) as described from records in February, 2022 by Thomas M. Meeks, Ohio Registered Surveyor No. 8674 of CT Consultants, Inc.

The above described easement burdens a portion of the premises currently designated as Cuyahoga County Auditor's Permanent Parcel No. 313-11-006.

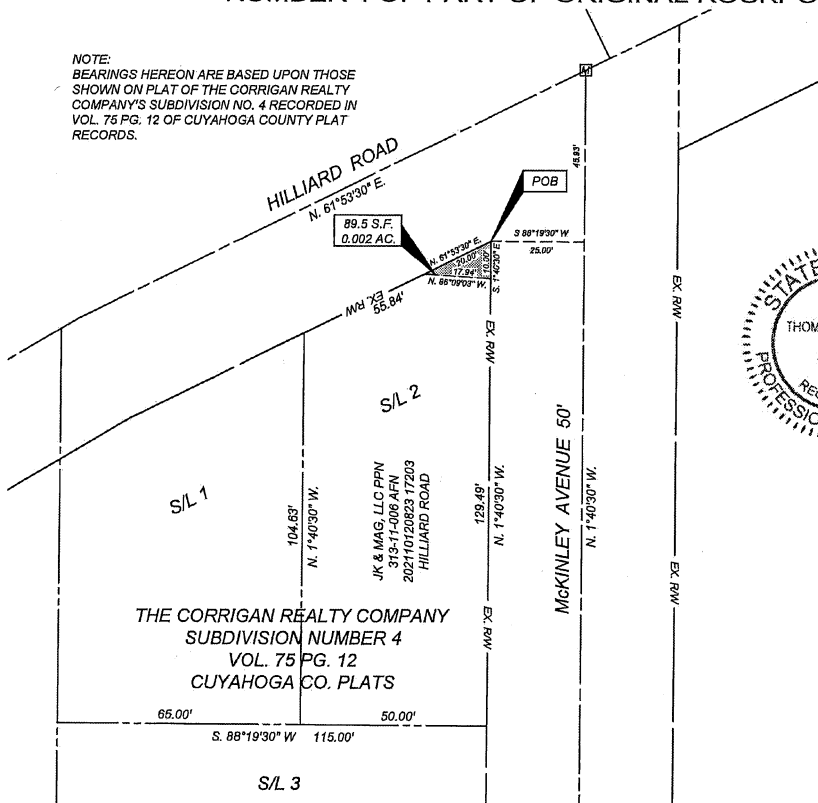
Bearings utilized herein are based upon those shown on plat of The Corrigan Realty Company Subdivision Number 4 recorded in Volume 75, Page 12 of Cuyahoga County Map Records.



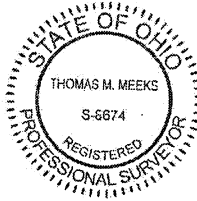
  
Thomas M. Meeks  
Ohio Registered Surveyor No. 8674  
February 2, 2022

**TRAFFIC CONTROL SAFETY IMPROVEMENTS**  
**STATE OF OHIO, COUNTY OF CUYAHOGA, CITY OF LAKEWOOD,**  
**PART OF SUBLT NO. 2 IN THE CORRIGAN REALTY COMPANY SUBDIVISION**  
**NUMBER 4 OF PART OF ORIGINAL ROCKPORT TOWNSHIP SECTION 18**

NOTE:  
 BEARINGS HEREON ARE BASED UPON THOSE  
 SHOWN ON PLAT OF THE CORRIGAN REALTY  
 COMPANY'S SUBDIVISION NO. 4 RECORDED IN  
 VOL. 75 PG. 12 OF CUYAHOGA COUNTY PLAT  
 RECORDS.



30' 0' 30'  
 SCALE: 1" = 30'

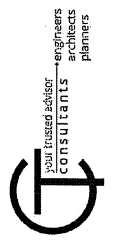


**LEGEND**

- PR. EASEMENT LIMITS
- EX. RW
- PARCEL LINE
- MONUMENT BOX
- IRON PIN (FOUND)

**CERTIFICATION:**  
 I HEREBY CERTIFY THAT THIS EXHIBIT DEPICTS THE CORRECT  
 REPRESENTATION OF THE LAND AS DETERMINED FROM EXISTING  
 RECORDS & MINIMAL FIELD SURVEY WORK. THIS EXHIBIT IS NOT  
 INTENDED TO BE A BOUNDARY SURVEY AND DOES NOT MEET  
 THE STANDARDS OUTLINED AND DEFINED BY CHAPTER 4733-37  
 OF THE OHIO ADMINISTRATIVE CODE.

*Thomas M. Meeks* 2/7/2022  
 THOMAS M. MEEKS, PS 8674 DATE



SCALE:	1"=30'
DATE:	2/7/2022
DRAWN BY:	LMK
CHECKED BY:	TPH
APPROVED BY:	TPH

**TRAFFIC CONTROL SAFETY IMPROVEMENTS**  
 -THE CITY OF LAKEWOOD, OHIO -  
**EXHIBIT OF EASEMENT**

PROJECT NO:	
200016	
DRAWING NAME	
HILLIARD AT MCKINLEY CIL.TPH	
SHEET	OF
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